
(2012) 03 DEL CK 0639
In the Delhi High Court
Case No : Writ Petition (C) 1527 of 2012

Prashanta Kumar Sen

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2012) 03 DEL CK 0639

Hon'ble Judges : V.K. Jain, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : A. Chakraborty, for the Appellant; Baldev Malik and Mr. Arjun Malik for R-1 and 4, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed

1. This writ petition is directed against the order dated 16.12.2011 passed in OA No. 4442/2011, whereby the petitioner's said original application was dismissed on the ground of limitation. The petitioner had been appointed to the Bihar Forest Service in 1967. He was promoted to the Indian Forest Service by a notification dated 25.08.1975. Thereafter, the Bihar Reorganization Act, 2000 came into force as a result of which the State of Bihar was re-organized into two States being the State of Bihar and the State of Jharkhand. The said reorganization came into effect on 15.11.2000. At that point of time, the petitioner was allocated to the newly formed Jharkhand cadre. He retired on 31.08.2001. He made a representation for his allocation to the State of Bihar. However, that representation was rejected on 19.05.2001.

2. The Learned Counsel for the petitioner pointed out that his case had been recommended on 30.10.2000 as per the note put up by the Under Secretary, Indian Forest Service. The relevant portion of the said note reads as under:-

4. In the case of Bihar/Jharkhand, Shri A.K. Sinha, a promote officer of 1969

batch has opted for Jharkhand but as per the roster he is getting Bihar P.K. Sen requesting for his allocation to residual Bihar State. Since both of them fall in the same band in the roster, Shri A.K. Sinha's cadre may be exchanged with that of Shri P.K. Sen. Necessary changes have been made in the roster as well as in the lists of cadre allocation.

Approval of MEF is solicited to the changes proposed before the revised lists are sent to the DoPT.

Thereafter, according to the Learned Counsel for the petitioner the said recommendation was approved by the Minister of Environment and Forests. In this context, he drew our attention to the note of the Joint Secretary dated 31.10.2000. The relevant portion of which reads as under:-

.....Besides, Shri A.K. Sinha a promote IFS officer of 1969 batch in the Bihar Cadre has opted for Jharkhand whereas Shri P.K. Sen, another promote officer of same batch, has opted for Bihar. Since both these officers fall in the same roster band, their names have been exchanged with each other. Revised Lists are placed below. MEF has approved the above changes.

Changes made are brought to the notice of the Chairman, Advisory Committee. Necessary notification will be issued by this Ministry after it is seen and agreed by him.

3. It was the case of the Learned Counsel for the petitioner that once the recommendation had been made and the same had been approved, his representation for allocation to the State of Bihar could not have been rejected on 19.05.2001.

4. Without going into the merits of whether the representation was rightly or wrongly rejected, it is a fact that the cause of action arose on 19.05.2001 when his representation for allocation to the State of Bihar came to be rejected. It is about 10 years later that he filed the said original application on the grievance that he had been illegally allocated to the State of Jharkhand and that had he been allocated to the State of Bihar, he would have superannuated from the post of Principal Chief Conservator of Forest Bihar, which would have impacted his present retiral benefits. The Tribunal examined the contentions of the petitioner with regard to the delay in approaching the Tribunal. The only reason sought to have been given by the petitioner was that he was under a bona fide belief that the respondents had followed the criteria set down and that their action of allocating him to Jharkhand was fair and just. It is for this reason that he had not challenged the notification which had allocated him to Jharkhand. It was also contended on behalf of the petitioner that only recently, after he was provided information under the Right to Information Act, 2005, he became aware that some illegality had been committed in the cadre allocation in 2009 and it is thereafter that he represented to the respondent No. 1 with regard to his allocation. The petitioner submitted that the said representation has not been decided.

5. The Tribunal took note of the fact that the petitioner had not approached the Tribunal after the rejection of his representation on 19.05.2011. It also rejected the plea of the petitioner that limitation would start to run from the date on which the representation which he made in 2009 would be decided. The Tribunal held that the subsequent representation would be of no consequence inasmuch as his original representation was rejected on 19.05.2001. Consequently, the cause of action, according to the Tribunal, accrued to the petitioner when he was allocated to Jharkhand State or at the most when his application seeking allocation to Bihar was rejected on 19.05.2001. It was, therefore, held that the petitioner had approached the Tribunal much beyond the period of limitation prescribed u/s 21 of the Administrative Tribunals Act, 1985. Considering the submission made by the Learned Counsel for the petitioner and the facts and circumstances of the case, we see no reason to interfere with the order passed by the Tribunal inasmuch as the petitioner had come to know on 19.05.2001 that his request of allocation to Bihar had been rejected. Yet, he did not take any action till the filing of his so-called representation in the year 2009. In any event, the subsequent representation would not entitle the petitioner to extend the point of time. The clock started ticking for the purposes of limitation. That point was on 19.05.2001, in the latest. He ought to have approached the Tribunal within the period prescribed u/s 21 of the said Act beginning from 19.05.2001. He did not do so. He also did not offer any tangible explanation for the delay in coming to the Tribunal.

In these circumstances, we do not see any reason to interfere with the impugned order. The writ petition is dismissed.